

# NAIOP

COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION

CHARLOTTE CHAPTER

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February 17, 2014

Senator Brent Jackson

Co-Chair, Environmental Review Commission

300 N. Salisbury Street, Room 523

Raleigh, NC 27603-5925

Dear Senator Jackson:

On behalf of the 110 commercial developer members of NAIOP North Carolina, I appreciate the willingness of the Environmental Review Commission to consider our perspective as part of its study into whether cities and counties should be authorized to enact environmental ordinances regulating a field that is also regulated by a State or federal statute.

NAIOP North Carolina supports the pre-emption language originally included in SB 612 as a necessary and important tool to ensure a level playing field for economic development across our state. Currently, many local governments, including Mecklenburg County and the City of Charlotte, exceed existing state and federal storm water regulations in ways that make development, and particularly *redevelopment*, prohibitively expensive.

For example, North Carolina's Phase II storm water rules exempt from post-construction requirements "any redevelopment that does not produce a net increase in built-upon area and provides equal or greater storm water control than the existing site." But Mecklenburg County and the City of Charlotte provide NO redevelopment exemption, instead requiring post construction storm water controls on even those redevelopment sites where net built-upon area is reduced.

The impact of this excessive local regulation is that many older properties in Mecklenburg County are not redeveloped because of the need to install onsite retention ponds, often underground, that can cost in the hundreds of thousands of dollars.

The justification given to the development industry for this regulation is *not* that it keeps Mecklenburg County in compliance with any state or federal water quality mandate, but simply that it represents the prospective enforcement of anticipated federal rules not yet in place. But there's never been a federal rule that's been backdated – any forthcoming federal environmental law would logically grandfather any sites redeveloped prior to

its implementation. Even if the federal government were to *someday* adopt such a requirement for post-construction storm water controls, the economic redevelopment that could occur today, and in the years before its enactment, is substantial, as is the anticipated job creation it would produce.

There are some tangible consequences to the excessive regulation. As I testified before the ERC recently, there is an existing, older shopping center in south Charlotte that was negatively impacted by the rule that a building expansion triggers compliance with PCCO even though there was no net change in impervious area. That determination foiled the anchor retailer's plans to expand its store and make a significant investment in that location.

In conclusion, we encourage you to consider legislation that would preclude cities and counties from adopting environmental regulations that exceed state or federal statute, unless it goes through the process of securing local authorizing legislation from the General Assembly. We believe this one step would pay tremendous dividends for economic development and job growth across North Carolina, and we thank you for giving it the consideration it deserves.

Sincerely,

A handwritten signature in black ink that reads "Chris Thomas". The signature is written in a cursive, flowing style with a large initial "C".

Chris Thomas  
President, NAIOP Charlotte